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(Attorney for Petitioner)

**JUN 30 1999**

**SPECIAL PROGRAMS OFFICE  
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In re Application of  
[                    ]  
Application No. [                    ]  
Filed: [                    ]  
For: [                    ]

:  
: NOTICE RE PETITION TO  
: INSTITUTE PUBLIC USE  
: PROCEEDINGS  
:

On March 20, 1998, a petition to the Commissioner to institute public use proceedings against the claims of an application identified by petitioner as application No. 08/746,360 was filed. The petition was accompanied by, inter alia, proof of service; the required fee under 37 CFR 1.292 and 1.17(j); three (3) VHS videotapes; Declarations of John M. Sheldon, Janna G. Clark, Paul E. Chandler, Sharon Mulvagh, M.D., Gregory L. Holley and Joan C. Main; and a copy of form PTO-1449.

The petition, declarations and tapes were referred to the Examiner of Art Unit 3737 for a report as to whether it has been established, prima facie, that the invention defined by the claims of the application was in public use or on sale in this country more than one year prior to the effective filing date of the application. Since this is an ex parte case, no copy of the Examiner's Report is being forwarded to the petitioner. Also, this "Notice" has been edited to delete the application number, filing date, name of applicant and title of the invention.

In view of the Examiner's conclusion that a prima facie showing has been made, a preliminary hearing is set for Thursday, September 9, 1999, at 10:00 a.m. in order to determine whether public use proceedings should be instituted. The parties are requested to appear at that time in Crystal Plaza Building 4, Room 3C23, 2201 South Clark Place, Arlington, Virginia.

The parties are referred to M.P.E.P. 720.03 for a discussion of the nature and purpose of the preliminary hearing. If after receipt of the Examiner's Report, applicants conclude that a preliminary hearing is unnecessary and that the proceedings should go forward, applicants are encouraged to notify petitioner's counsel and Senior Legal Advisor Fred A. Silverberg at (703)305-9282 **promptly** so that the hearing can be waived and the proceedings expedited.

A handwritten signature in cursive script, appearing to read "Charles Pearson", followed by a long horizontal line.

Charles Pearson  
Patent Legal Administrator  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects

fas

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